

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RONALD J. JONES,) 8:15CV94

)

Petitioner,)

)

v.)

)

STATE OF NEBRASKA,)

)

Respondent.)

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion. Rule 2(a) of the Rules Governing Section 2254 Cases in the United States District Courts states that “if the petitioner is currently in custody under a state-court judgment, the petition must name as respondent the state officer who has custody.” In habeas corpus challenges to present physical confinement, the default rule is that the proper respondent is the warden of the facility where the prisoner is being held. *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2005).

Here, Petitioner has named the State of Nebraska as Respondent in this matter. The State of Nebraska is not the proper respondent in this case.

IT IS THEREFORE ORDERED that: Within 14 days, Petitioner must file a motion requesting that this court substitute the state officer who has custody over him—Warden Brian Gage or Director Scott Frakes—as the respondent in this case. Failure to do so will result in the court dismissing this case without further notice.

DATED this 28th day of September, 2015.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge